IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
JAIPUR BENCH

S.B. Civil Writ Petition No.602/01
Nikhil Madan
Vs.
Anand Bhawan Nirmal Sahkari Samiti Ltd. & Ors.

13.03.2007

Hon'ble Mr. Justice Mohammad Rafiq

Dr. P.C. Jain for petitioner.
Mr. Mahendra Goyal for respondent.

Heard learned counsel for the parties.

The petitioner has filed this writ petition with the prayer that the respondents may be directed by a mandamus to issue patta in his favour in regard to plot no.135 in Zone No.2, Tagore Nagar, Ajmer Road, Jaipur measuring 325 sq. yards having dimension of 65 x 45 feet.

Dr. P.C. Jain, the learned

counsel for the petitioner submits that he purchased this plot from the respondent no.1 M/s. Anand Bhawan Nirmal Sahakari Samiti Ltd. The Samiti has deposited the requisite conversion charges and other fees etc. with the respondent JDA in pursuance of Rajasthan Land Revenue (Allotment, Conversion & Regularization of Agricultural Land for Residential & Commercial Purposes in Urban Areas) Rules, 1981, and the respondents are required in law to issue patta but they are avoiding to do so under compulsion, therefore, the petitioner has approached this Court.

Per contra, Shri Mahendra Goyal, the learned counsel for the respondent JDA submits that the society from which the petitioner purchased the plot in

question had no title or ownership over the land of khasra no.185 within which the plot in question falls. The society did not have any valid or legal documents as to the title and ownership of the land of khasra no.185 in Village Heerapura. The JDA therefore decided not to regularize the society. Since there are disputed questions of facts especially in regard to the title of the society and which makes the title of the petitioner himself questionable, these facts cannot be decided by except on evidence. According to the learned counsel for the JDA, the petitioner has the alternate remedy by way of reference under Section 82 of the Act before the JDA Appellate Tribunal which according to him is equally efficacious remedy.

Having heard the arguments of learned counsel for the parties, I find that in the facts of the case, this Court in exercise of its writ jurisdiction under Article 226 cannot adjudicate upon the title of either the society or the petitioner himself particularly when such is required to be decided on the basis of evidence. Besides, the respondent society in spite of service also not chosen to appear to support the claim of the petitioner. When already the Statute under which the dispute is raised provided for a remedy before the JDA Appellate Tribunal, I hardly think that there is any justification for this Court to entertain the petition involving such a contentious issues.

In the facts of the case, the

writ petition is held to be not maintainable. However the petitioner is set at liberty to approach the JDA Appellate Tribunal within two months for redressal of his grievance.

With these observations, the writ petition is dismissed.

(Mohammad Rafiq),J.

Rs/-